99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-776

ESTABLISHING THE SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA IN COCHISE COUNTY, ARIZONA, IN ORDER TO ASSURE THE PROTECTION OF THE RIPARIAN, WILDLIFE, ARCHAEOLOGICAL, PALEONTOLOGICAL, SCIENTIFIC, CULTURAL, EDUCATIONAL, AND RECREATIONAL RESOURCES OF THE CONSERVATION AREA, AND FOR OTHER PURPOSES

AUGUST 8, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

AUG 25 1986

REPORT

U. S. GOVT. PUBS.
DEPOSITORY 375

[To accompany H.R. 4811]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4811) to establish the San Pedro Riparian National Conservation Area in Cochise County, Arizona, in order to assure the protection of the riparian, wildlife, archaeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3 strike all after the enacting clause and insert the following:

SECTION 1. ESTABLISHMENT OF SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT.—In order to protect the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the public lands surrounding the San Pedro River in Cochise County, Arizona, there is hereby established the San Pedro Riparian National Conservation Area (hereafter in this Act referred to as the "conservation area").

(b) AREA INCLUDED.—The conservation area shall consist of public lands as generally depicted on a map entitled "San Pedro Riparian National Conservation Area—Proposed" dated July 1986, comprising approximately 43,000 acres.

(c) MAP.—As soon as is practicable after enactment of this Act, a map and legal description of the conservation area shall be filed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Each such map shall have the same force and effect as if included in this Act. Such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in the Bureau of Land Management of-

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fices of the State Director for Arizona, and the district office responsible for the management of the conservation area.

SEC. 2. MANAGEMENT OF THE CONSERVATION AREA.

(a) GENERAL AUTHORITIES.—The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area. Such management shall be guided by this Act and, where not inconsistent with this Act, by the provisions of the Federal Land Policy and Management Act of 1976 (hereinafter in this Act referred to as "FLPMA").

(b) USES.—The Secretary shall only allow such uses of the conservation area as he finds will further the primary purposes for which the conservation area is established. Except where needed for administrative or emergency purposes, the use of motorized vehicles in the conservation area shall only be allowed on roads specifically designated for such use as part of the management plan prepared pursuant to section 3 of this Act. The Secretary shall have the power to implement such reasonable limits to visitation and use of the conservation area as he finds appropriate for the protection of the resources for the conservation area, including requiring permits for public use, or closing portions of the conservation area to public use.

(c) LIVESTOCK.—In order to provide an opportunity for the study, evaluation, and monitoring of riparian areas in the absence of livestock grazing, the Secretary shall not, subject to valid existing contractual rights, issue any permit for the grazing of livestock on lands designated as part of the conservation area by this Act for a period of 15 years from the date of enactment of this Act.

(d) WITHDRAWALS.—Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(e) ENFORCEMENT.—Any person who violates any provision of this Act or any regulation promulgated by the Secretary to implement this Act shall be subject to a fine of up to $10,000, or imprisonment for up to one year, or both.

SEC. 3. MANAGEMENT PLAN.

(a) DEVELOPMENT OF PLAN.—No later than 2 years after the enactment of this Act, the Secretary shall develop a comprehensive plan for the long-range management and protection of the conservation area. The plan shall be developed with full opportunity for public participation and comment, and shall contain provisions designed to assure protection of the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreation resources and values of the conservation area.

(b) RECOMMENDATIONS.—The Secretary shall, in the comprehensive plan referred to in subsection (a), develop recommendations to Congress on whether additional lands should be included in the conservation area.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate State and local agencies, pursuant to section 307(b) of FLPMA, to better implement the plan developed pursuant to subsection (a).

(d) RESEARCH.—In order to assist in the development of appropriate management strategies for the conservation area, the Secretary may authorize research on matters including the environmental, biological, hydrological, and cultural resources of the conservation area, pursuant to section 307(a) of FLPMA.

SEC. 4. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary shall establish a San Pedro Riparian National Conservation Area Advisory Committee, whose purpose shall be to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required pursuant to section 3 of this Act.

(b) REPRESENTATION.—There shall be 7 members of the Committee, who shall be appointed by the Secretary. Members of the Committee shall be appointed for terms of three years, except that of the members first appointed 2 shall be appointed for terms of 1 year and 3 shall be appointed for terms of 2 years. The Secretary shall appoint one member from nominations supplied by the Governor of the State of Arizona, and one member from nominations supplied by the Supervisors of Cochise County, Arizona. The other members shall be persons with recognized backgrounds in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the primary purposes for which the conservation area was created.

SEC. 5. LAND ACQUISITION.

The Secretary may acquire lands or interests in lands within the boundaries of the conservation area by exchange, purchase, or donation, except that any lands or interests therein owned by the State or local government may be acquired by donation or exchange only. Any purchase or exchange of lands to be added to the conservation area shall require the consent of the owner of those lands or rights.

SEC. 6. REPORT TO CONGRESS.

No later than 5 years after the enactment of this Act, and every 10 years thereafter, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, on the implementation of this Act. Such report shall include a detailed statement on the condition of the resources within the conservation area and of the progress of the Bureau of Land Management in achieving the purposes of this Act.

SEC. 7. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

BACKGROUND AND NEED

Riparian (streamside) areas, because of their abundance of water and cover, have historically been the richest wildlife habitats in the arid interior West of the United States. But the water that attracted wildlife also attracted development and utilization by man. Much of the west's aboriginal riparian habitat has suffered from development or past overuse that led to elimination of cover and forage, reduction of water flow due to habitat changes and water diversions, severe erosion problems, and invasion by alien weed species such as tamarisk. All of these factors have combined to greatly degrade the value of many of the west's riparian areas for wildlife habitat.

The San Pedro River is a fortunate exception. While it is by no means pristine, that portion of the river affected by H.R. 4811 represents a uniquely long stretch of desert riparian habitat in good condition, as well as other significant resources which greatly enhance its importance as a public resource. The area designated as a national conservation area by H.R. 4811 covers a 30 mile long, 43,000 acre corridor along the San Pedro River in southern Arizona.

This area is frequented by an outstanding diversity of wildlife, including more than 260 bird species. The river serves as a corridor for the entrance of many Mexican species into the area, including raptors such as the gray hawk, Harris hawk, zone-tailed hawk, black hawk, and aplomado falcon, which are only rarely seen in the United States.

This area also includes more than 120 archeological and historic sites. These include important 11,000 year-old Paleo-Indian sites, Native American sites dating from 7,000 years ago to historic times, the 18th-century Presidio of Santa Cruz de Terrenate, the site of the Mexican War's Battle of the Bulls, and several 19th-century ghost towns and mill sites. These sites provide unique opportunities for interpretation as well as for research.

The area also includes nine known vertebrate fossil sites, including two of important research significance.

In March, 1986, the Bureau of Land Management of the Department of the Interior acquired this area through exchange. The purpose of the exchange was, as stated by the Bureau at that time, "to place in public ownership high-value natural resources", and the

Bureau referred specifically to the resources enumerated earlier in this report.

The Committee wishes to commend the Bureau, and particularly its State Director for Arizona, Dean Bibles, for their effort and initiative in acquiring these lands. The purpose of H.R. 4811 is to provide a mandate for the protection and enhancement of the many values of this area.

NATIONAL CONSERVATION AREA DESIGNATION

The Congress has previously designated three other National Conservation Areas, each with its own mandate. The mandate provided for the San Pedro area in H.R. 4811 is designed to fit the needs of this particular area, and provides specific management direction to protect the resources of this area.

The key provisions of H.R. 4811 require the Secretary to manage this conservation area to protect its riparian area and the natural resources associated with it, including wildlife and wildlife habitat, and to protect the cultural and paleontological resources of the area. The bill also makes it clear that the primary uses of these resources in this area, consistent with the mandate of this legislation, are educational and scientific ones.

This mandate is intended to be as protective as possible of the natural and cultural resources referred to above. The Committee amendment provides that the Secretary may only allow such uses of the conservation area as will *further* the primary purposes of the bill—which are, as outlined in Section 1(a) of the bill, to protect the conservation area and its resources. The Secretary may, subject to this mandate, permit access for hunting to the extent permitted by the State of Arizona's laws and regulations governing that activity.

NONCONFORMING USES

The protections for the conservation area included in H.R. 4811 include withdrawing the area from disposition under the public land laws, and from entry or disposition under the mining and mineral leasing laws.

The former private owners of the river corridor had leases with several commercial enterprises for use of the area that has now been acquired by the BLM. BLM agreed to honor those leases through their expiration. The Committee supports that arrangement.

There are two sand and gravel mining operations currently located near Lewis Springs, in the center of the remnant riparian forest within the conservation area. The Committee believes that the purposes and intent of H.R. 4811, as set forth in the bill as amended and in this report, make it clear that the continuance of these operations would not meet the "public interest" test of Section 1(3) of the Common Varieties Act (Ch. 406, 61 Stat. 681). The Committee urges the Bureau to aid the present lessees in finding appropriate alternative locations for their operations outside the conservation area.

The prior owners had also leased some of the lands in the conservation area for livestock grazing. BLM intends to honor these

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leases until the date of their expiration, and the Committee believes that this is appropriate.

However, H.R. 4811, as amended, precludes the Secretary from issuing any new grazing permits for the conservation area for a period of 15 years. Livestock grazing is a use with particular impact on riparian areas, because of the natural tendency of cattle to concentrate by available water and shade in the hot and arid southwest. If they are allowed to concentrate, livestock may fail to utilize forage over a large area and instead overgraze the immediate riparian area, with severe impacts on riparian vegetation and cover.

The control of such impacts may require intensive and expensive management and facilities which might require diverting funds needed for livestock management in other areas, and which could materially interfere with the purposes for which these lands were acquired by the BLM and the purposes of the Committee in drafting H.R. 4811.

Working with the Committee, the sponsors of H.R. 4811 concluded that a 15 year ban on new grazing permits in the conservation area, as provided by the Committee amendment, would significantly add to the scientific value of the conservation area by providing a benchmark for the study, evaluation, and monitoring of a large riparian area in the absence of grazing.

The Committee does not intend to imply that livestock grazing must or should be reintroduced into the conservation area in 15 years. At that point, the decision on whether livestock grazing would be an appropriate use of the area will be made by the administering agency based on its assessment of the effect of renewed grazing use on the environmental health of the conservation area, consistent with the general provisions of H.R. 4811.

ADMINISTRATIVE CLOSURE

The Committee notes that the BLM has closed most or all of the area affected by H.R. 4811 from public entry to protect its resources and the existing uses of the area by private lessees, pending completion of a management plan to be made with full public participation. The Committee does not intend for this legislation to overturn or in any way affect that order or the BLM's authority to issue it. In fact, H.R. 4811 as amended provides specific authority to the Secretary to limit public use, in section 2(b).

COMMITTEE AMENDMENT

The Committee adopted an amendment in the nature of a substitute to H.R. 4811. The provisions of the substitute are summarized in the Section-by-Section Analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 establishes a San Pedro Riparian National Conservation Area of approximately 43,000 acres in southern Arizona, as depicted on a referenced map.

Section 2(a) provides that the conservation area shall be managed by the Secretary of the Interior to conserve, protect, and enhance its resources.

Section 2(b) allows only such uses of the conservation area as will further the purposes of the area, restricts motorized vehicle use to designated roads except for emergency and administrative purposes, and allows the Secretary to limit visitation and use of the area to protect resources.

Section 2(c) prohibits the issuance of new permits for livestock grazing in the conservation area for 15 years.

Section 2(d) withdraws the conservation area from disposition under public land, mining, or mineral leasing laws.

Section 2(e) provides penalties for violation of the Act or regulations promulgated to implement this bill.

Section 3 provides for completion of a management plan, developed with full public participation, in 2 years, and for cooperative agreements or research needed for the preparation or implementation of said plan.

Section 4 establishes an advisory committee to advise the Secretary on development and implementation of said plan.

Section 5 provides authority to acquire inholdings with the consent of the landowner.

Section 6 requires reports to the Congress from the Secretary on the implementation of this bill.

Section 7 authorizes the appropriation of such sums as may be necessary to carry out the bill's provisions.

COST AND INFLATIONARY IMPACT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that enactment of H.R. 4811 as amended will have no inflationary impact on the national economy. The analysis of the Congressional Budget Office on the costs of this legislation follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 7, 1986.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Longworth House Office Building; Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4811, a bill to establish the San Pedro Riparian National Conservation Area in Cochise County, Arizona, in order to assure the protection of the riparian, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area, and for other purposes, as ordered reported by the House Committee on Interior and Insular Affairs on August 6, 1986.

H.R. 4811 would authorize the establishment of a national conservation area comprising approximately 43,000 acres and require the Secretary of the Interior to prepare a management plan, establish a seven-member advisory committee, and provide periodic reports to the Congress. The bill would enable the Secretary to au-

thorize research on the conservation area and to enter into cooperative agreements with state and local agencies to implement the plan. H.R. 4811 would authorize the appropriation of such sums as may be necessary to carry out its provisions.

Based on information obtained from the Bureau of Land Management (BLM), CBO expects the federal government would not incur signiificant additional costs if this bill were enacted. BLM has already acquired the land through existing exchange authorities and prepared a management plan for the area. CBO estimates that the costs of establishing the advisory committee, preparing the reports to the Congress, and authorizing research projects would be negligible.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

LEGISLATIVE HISTORY

On July 15, 1986, the Subcommittee on Public Lands held a hearing on H.R. 4811 in Washington, D.C. and received testimony from the Administration and public witnesses.

On August 5, 1986, the Subcommittee on Public Lands adopted an amendment in the nature of a substitute to H.R. 4811, and reported the bill, as amended, favorably to the Committee on Interior and Insular Affairs by voice vote.

COMMITTEE RECOMMENDATION

On August 6, 1986, the Committee on Interior and Insular Affairs approved H.R. 4811, as amended, and ordered the bill reported favorably to the House, by voice vote.

OVERSIGHT STATEMENT

No recommendations were submitted to the Committee pursuant to clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

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